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March 17, 1999

Ms. Magalie Roman Salas
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RECEIVED
MAR 17 1999
FEDERAL COMMUNICATIONS COMMISSION
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Re: In the Matter of Amendment of Section 2.106 of the
Commission's Rules to Allocate Spectrum at 2 GHz
for Use by the Mobile-Satellite Service;
ET Docket No. 95-18;
Ex Parte Letter to Correct the Record

Dear Madam Secretary:

On behalf of our client, the American Petroleum Institute ("API"), we respectfully submit this *Ex Parte Letter* to correct certain misstatements made by the ICO USA Service Group ("IUSG")^{1/} in its *Consolidated Reply to Comments and Oppositions* ("Reply") filed in the above-referenced matter on March 8, 1999.

IUSG's *Reply* addresses various Comments and Oppositions submitted in response to a number of Petitions for Reconsideration filed in this proceeding by IUSG and other parties. In its *Reply*, IUSG claims: (1) that the *Emergency Petition for Further Limited Reconsideration* ("Emergency Petition") filed by IUSG and ICO Services Limited ("Petitioners") on December 23, 1998 requested the Federal Communications Commission ("Commission") to freeze all new Fixed

^{1/} IUSG is comprised of BT North America, Inc., Hughes Telecommunications and Space Company, Telecommunicaciones de Mexico and TRW Inc.

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Ms. Magalie Roman Salas
March 17, 1999
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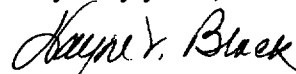
Service ("FS") license applications and modifications from the date of the release of the Commission's Memorandum Opinion & Order in this proceeding; and (2) that no party opposed this request.^{2/} As explained below, each of these claims is incorrect.

The *Emergency Petition* is devoted entirely to Petitioners' request that the Commission freeze or condition new licenses in the **Broadcast Auxiliary Service**; contrary to IUSG's assertions, it does not ask the Commission to modify its existing rules or policies with respect to the granting of applications for new or modified FS systems in the 2.1 GHz band.^{3/} Under these circumstances, it is hardly surprising that no party addressed this issue in its Opposition to the various Petitions for Reconsideration filed by the MSS industry.

Admittedly, IUSG did request a freeze on the issuance of new or modified FS licenses in the 2.1 GHz band in its *Comments* in this proceeding (filed February 3, 1999). However, API explicitly opposed this request in its *Reply Comments* -- the appropriate forum for addressing this issue. As API explained in that pleading, there is no purpose to be served by such a freeze because all new FS licenses and major modifications already are conditioned on secondary status and, as a result, do not increase the potential reimbursement obligations of MSS licensees.^{4/} Accordingly, IUSG is simply incorrect that no party has opposed its request for a total freeze on new FS licenses and renewals.

While we regret any burden that the filing of this *Ex Parte Letter* may have imposed on the Commission or the other parties to this proceeding, we did not believe that IUSG's erroneous statements should have been permitted to stand unchallenged in the record in this important proceeding.

Very truly yours,



Wayne V. Black

^{2/} See *Reply* at ii and 2-3.

^{3/} In fact, Petitioners note with apparent approval that the Commission has been conditioning all new FS licenses in the 2.1 GHz band with secondary status since 1992. *Emergency Petition* at 3 and 6. Petitioners also state that the Commission has failed to address MSS industry requests that it condition renewals of FS licenses, but they do not make any explicit requests in their *Emergency Petition* with respect to this issue either. See *Emergency Petition* at 8.

^{4/} See API's *Reply Comments* at 9-10 (filed March 5, 1999).

CERTIFICATE OF SERVICE

I, Claudette Tang-Kwok, a secretary with the law firm of Keller and Heckman LLP, do hereby certify that the foregoing EX PARTE LETTER was delivered, via first class mail, postage prepaid, this 17th day of March, 1999 upon the following:

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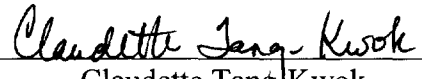
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